

G. R. S. IX-5]

Previous references.

Regis 57-15-11/
5-08-11/

Presam

1917.-18

(Leges)

File No. *31-17*

Serial Nos. *1*

Later references.

CS 51-26-1, 2, 445 (contd)

PP 44-28-1 (contd)

CS 106-28-1

(15)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. *1*

Part B for *April 1918*

SUBJECT.

*Amendment of the Mysore News-
papers Regulation*

191 7.

GENERAL AND REVENUE SECRETARIAT.

(Legis)

NOTES.

File No. 37-1/

FILE HEADING.

Amendment of the Mysore Newspapers
Regulation

From

Under the Press Regulation of 1908, Government have the right to refuse permission for printing, publishing, or - - editing any newspaper or other printed work and also to withdraw such permission. In either case they are not required to - assign any reason in support of their --- decision and the party concerned will - - have no idea as to the grounds on which the permission was refused or withdrawn. The penalty for publishing, printing or - editing without permission is mentioned in detail in Section 4 of the Regulation.

To provide for a judicial trial in - cases of breach, it seems necessary that the grounds on which the Government refuse or withdraw the permission should - be specifically stated so that the party concerned may know exactly in what respects he has offended against the provisions of the Regulation and the court -- also may decide whether the orders of -- Government are in accordance with the -- provisions of the Regulation. In the absence of such specific provisions it will be impossible for the party to assail the order in a court of law or for the court to decide whether the discretion vested - in the Government by the Statute has been properly exercised. It seems therefore - necessary to have a comprehensive provision as in section 4 of the Press Act.

As observed by Sir Lawrence Jenkins - in Mahomed Ali's case, the provisions of section 4 are very comprehensive, and its language is as wide as human ingenuity -

appeal against a more serious order of deportation or forfeitures should also be allowed.

A draft is prepared on the lines of the British Indian Press Act, and submitted herewith. In that Act, - there is no provision for deportation though ~~that~~ heavy securities are demanded and forfeited for breach of -- the provision?

As the Explanation II to Section 4 of the Indian Press Act is held to be not happily worded, and has been - *criticized*, the clause has been slightly - altered by the substitution of the word "tending" in the place of attempting" One of the Judges stated in regard to this clause "The wording of the explanation which is apparently taken from section 124 A Indian Penal Code is not altogether happy. Comments may excite hatred etc., but it is -- difficult to see how comments like the words used) can attempt to excite."

There is also no section corresponding to section 7 of the Indian Press Act as to the mode of executing the orders of forfeiture that may be passed by Government under section 4. Accordingly a new section is added -- as Section 5 A. The Provisions re --- garding the enquiry before the Chief Court are based on S.17 to 22 of the Press Act.

To the Dy. Secy, Chief-Commr,

the Dy. Commr of Dist.

the Heads of Departments,

No. Camp. G. 26-76 of 22nd April 1

passes orders on the modification

of Mysore Newspaper Regulation 1908.

A Bill to amend the Mysore Newspapers
Regulation.

Where as it is expedient to amend the Mysore Newspapers Regulation by --- stating the cases under which the Government may exercise their powers of forfeiture and providing for adjudication by the Chief Court

His Highness the Maharaja is pleased to enact as follows:-

1. The following section shall be substituted for section 3 of the Regulation:-

"3 (1) Whenever it appears to the Government that any printing press is used for the purpose of printing or publishing any newspaper, book or other document containing any words, signs or visible representations which are likely or may have a tendency directly or indirectly whether by inference, suggestion, allusion, metaphor, implication or otherwise -

(a) to incite to murder or to any act of violence.

(b) to seduce any officer soldier in the Army or Navy of His Majesty or in the Military Forces of the Maharaja from his allegiance or duty, or

(c) to bring into hatred or contempt His Majesty or His Highness the Maharaja, or the Governments established by law in British India and in Mysore, or the administration of Justice in British India and in Mysore, or any native

Prince or Chief under the suzerainty of His Majesty or any class or section of His Majesty's subjects in British India or of His Highness's subjects in Mysore or to excite disaffection towards His Majesty or His Highness or the said Governments or any such Prince or Chief or

(d) to put any person in fear or - - cause annoyance to him and thereby induce him to deliver to any person any property or valuable security or to do any act which he is not legally bound to do or to omit to do any act which -- he is legally entitled to do, or

(e) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order or

(f) to convey any threat of injury - to a public servant or to any person - on whom that public servant is believed to be interested with a view to inducing that public servant to do any act or -- to forbear or delay to do any act connected with the exercise of his public functions, *P* the Government may by order in writing to the keeper of such printing press, publisher or editor of such newspaper book or other document, stating or describing the words signs or -- visible representations which in its -- opinion are of the nature described -- above, withdraw the permission granted under Section 2.

Explanation 1.

In clause (c) the expression - -
"disaffection" includes disloyalty, and
all feelings of enmity.

Explanation II.

Comments expressing disapproval of
the measures of the Governments or of --
any such Native Prince or Chief as afore-
said with a view to obtain their ~~alteration~~
~~the~~ alteration by lawful means or of the
administrative or other action of the
Governments, or of any such Native Prince
or Chief or of the administration of ----
Justice in British India or Mysore with--
out exciting or tending to excite hatred
contempt or disaffection do not come ---
within the scope of clause (c) "

2 After Section 5, the following shall be added as Clause 5 A.-

"5 A. When any printing press is or any copies of any newspaper, book or other document are declared forfeited to the Government under this Regulation, the Government may direct any Magistrate to issue a warrant empowering any Police Officer not below the rank of a Sub - Inspector to seize and detain any property ordered to be forfeited and to enter upon and search for such property in any - - premises. -

(1) where such property may be or may reasonably ~~be~~ suspected to be, or

(2) where any copy of such newspaper, book, or other document is kept for sale, distribution, publication or public - - exhibition or reasonably suspected to be so kept.

(2) Every warrant issued under this - - Section shall, so far as relates to search, be executed in manner provided for the execution of search warrants under the Code of Criminal Procedure'

3. After Section 7, the following new Sections shall be added:--

"7 A - Any person having an interest in any property in respect of which an order has been made under Section 3 or Section 4,

may within two months from the date of such order apply to the Chief Court to set aside such order on the ground that the newspaper, book or other document in respect of which the order was made did not contain any words, signs or visible representations of the nature described in Section 3.

"7 B - Every such application shall be heard and determined by a Special Bench composed of 3 Judges.

"7 C (4) If it appears to the Special Bench that the words, signs or visible representation contained in the newspaper, book or other document, in respect of which the order in question ^{was made} were not of the nature described in Section 3 sub section (1) the Special Bench shall set aside the order ~~of forfeiture~~.

(2) where there a difference of opinion among the Judges forming the Special Bench the decision shall be in accordance with the opinion of the majority (if any) of those Judges.

"7 D - On the hearing of any such application with reference to any newspaper, any copy of such ~~paper~~ newspaper published after the commencement of this Regulation may be given in evidence in aid of the proof of the nature or tendency of the words, signs or visible representations

contained in such newspaper which are alleged to be of the nature described in Section 3 sub section (1)

7 E - The Chief Court shall as soon as conveniently, may be, frame rules to regulate the procedure ^{in the case} of such application, the amount of the costs thereof ^{and} the execution of orders passed thereon. and until such orders are framed the practice of such Court in proceedings other than suits and appeals shall apply, so far as may be practicable to such applications.

7 F - Every declaration of forfeiture ^{or other order} purporting to be made under this Regulation shall as against all persons, be conclusive evidence that the forfeiture ^{or order} therein referred to has taken place and no proceeding purporting to be taken under this Regulation shall be called in - - - question by any Court except the Chief Court on such application and no civil or criminal proceeding except as provided by this Regulation shall be instituted against any person for anything done or in good faith intended to be done under this - - Regulation"

The question of repealing the Mysore News papers Regulation 1908 or at least the modification thereof so as to allow a final reference to the Chief Court is being mooted in the Representative Assembly since 1913.

It is deemed desirable to amend the Regulation so as to allow an appeal to the Chief Court on the orders of Government under sections 3 and 4 of the Regulation^{and} to describe the cases in which Government could cancel the permission granted under section 2 and order forfeiture under sections 3 and 4. Section 3 of the Regulation is therefore proposed to be replaced by a new section drawn up on the lines of section 4 of the British Indian Act I of 1910 and the provisions of sections 12, 17, 18, 19, 20, 21 and 22 of the British Indian Act relating to the execution of orders of Government regarding forfeitures, appeals to Chief Court and barring of jurisdiction of Civil Courts are embodied with necessary alterations in this Bill.

Proceedings of the Government of His Highness the Maharaja of Mysore.

Read—

Subject No. 56 of the Representative Assembly of 1917, (Dasara session) suggesting the repeal or modification of the Mysore Newspapers Regulation, 1908, and the reply of Government thereto

Order— Camp No. J. 26-76 Legis. 31-17-1 dated 22nd April 1918.

Government have bestowed careful consideration on the question and are of opinion that it is inexpedient under present conditions to undertake any radical alteration of the Press Law. They, however, consider that, before action is taken against any newspaper under the Regulation, an adequate opportunity should be afforded to the editor or other person concerned, to state his defence and explain his position with reference to the charges brought against him. They are accordingly pleased to direct that a *quasi*-judicial enquiry shall be held before action is taken under sections 3 and 4 of the Regulation. The enquiry will be conducted by a Judge of the Chief Court and the editor or other person concerned will be allowed to be represented by counsel. The enquiry will not be public and will not be elaborate or of a protracted character. The opinion of the officer holding the enquiry will be taken into consideration by Government in arriving at a decision on the case.

C. S. BALASUNDARAM IYER,

Chief Secretary to Government.

GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE.

GENERAL AND REVENUE DEPARTMENTS.

G. O No. Camp No. J. 26-76 Legis. 31-17-1 dated 22nd April 1918